



(Original Signature of Member)

115TH CONGRESS
2D SESSION

H. R. _____

To incentivize the hiring of United States workers in the Commonwealth
of the Northern Mariana Islands, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. SABLAN introduced the following bill; which was referred to the
Committee on _____

A BILL

To incentivize the hiring of United States workers in the
Commonwealth of the Northern Mariana Islands, and
for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Northern Mariana Is-
5 lands U.S. Workforce Act”.

6 **SEC. 2. PURPOSE.**

7 The purpose of this Act is—

(1) to increase the percentage of United States workers (as defined in section 6(i) of the Joint Resolution entitled “A Joint Resolution to approve the ‘Covenant To Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America’, and for other purposes” (48 U.S.C. 1806)) in the total workforce of the Commonwealth of the Northern Mariana Islands, while maintaining the minimum number of workers who are not United States workers to meet the changing demands of the Northern Mariana Islands’ economy;

(2) to incentivize the hiring of United States workers into such workforce; and

(3) to ensure that no United States worker—

(A) is at a competitive disadvantage for employment compared to workers who are not United States workers; or

(B) is displaced by a worker who is not a United States worker.

SEC. 3. TRANSITIONAL PROVISIONS.

(a) IN GENERAL.—Section 6 of the Joint Resolution entitled “A Joint Resolution to approve the ‘Covenant To Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of Amer-

1 ica', and for other purposes" (48 U.S.C. 1806) is amend-
2 ed—

3 (1) in subsection (a)—

4 (A) in paragraph (2), by striking "2019"
5 and inserting "2029"; and

6 (B) by amending paragraph (6) to read as
7 follows:

8 "(6) FEES FOR TRAINING UNITED STATES
9 WORKERS.—

10 "(A) SUPPLEMENTAL FEE.—

11 "(i) IN GENERAL.—In addition to fees
12 imposed pursuant to sections 208(d)(3)
13 and 245(i), the Immigration and Nation-
14 ality Act (8 U.S.C. 1158(d)(3) and
15 1255(i)) to recover the full costs of adju-
16 dication services, the Secretary shall im-
17 pose an annual supplemental fee of \$200
18 per nonimmigrant worker on each prospec-
19 tive employer who is issued a permit under
20 subsection (d)(3) during the transition pro-
21 gram.

22 "(ii) INFLATION ADJUSTMENT.—Be-
23 ginning in fiscal year 2020, the Secretary
24 may annually adjust the fee imposed under
25 clause (i) by a percentage equal to the an-

1 nual change in the Consumer Price Index
2 for All Urban Consumers published by the
3 Bureau of Labor Statistics.

4 “(iii) USE OF FUNDS.—Amounts col-
5 lected pursuant to clause (i) shall be annu-
6 ally deposited into the Treasury of the
7 Commonwealth Government for the sole
8 and exclusive purpose of funding vocational
9 education, apprenticeships, or other train-
10 ing programs for United States workers.

11 “(B) PLAN FOR THE EXPENDITURE OF
12 FUNDS.—At the beginning of each calendar
13 year, and before any of the supplemental fees
14 are deposited into the Treasury of the Com-
15 monwealth Government for that calendar year,
16 the Commonwealth Government shall submit to
17 the Secretary of Labor—

18 “(i) a plan for the expenditures of
19 amounts deposited under subparagraph
20 (A)(iii);

21 “(ii) a projection of the effectiveness
22 of such expenditures in the placement of
23 United States workers into jobs held by
24 non-United States workers; and

1 “(iii) a report on the changes in em-
2 ployment of United States workers attrib-
3 utable to expenditures of such amounts
4 during the previous year.

5 “(C) PAYMENT RESTRICTION.—Payments
6 may not be made from amounts deposited
7 under subparagraph (A)(iii) until after the Sec-
8 retary of Labor has approved the expenditure
9 plan submitted under subparagraph (B)(i).

10 “(D) REPORT.—The Secretary of Labor
11 shall submit an annual report to Congress that
12 describes the effectiveness of the Common-
13 wealth Government at meeting the goals set
14 forth in the expenditure plan submitted under
15 subparagraph (B)(i).”;

16 (2) in subsection (b), by adding at the end the
17 following:

18 “(3) REPORT.—Not later than 3 years after the
19 date of the enactment of the Northern Mariana Is-
20 lands U.S. Workforce Act, the Secretary shall sub-
21 mit a report to the Committee on Energy and Nat-
22 ural Resources of the Senate, the Committee on the
23 Judiciary of the Senate, the Committee on Natural
24 Resources of the House of Representatives, and the

1 Committee on the Judiciary of the House of Rep-
2 resentatives that—

3 “(A) projects the number of asylum claims
4 the Secretary anticipates following the termi-
5 nation of the transition period; and

6 “(B) describes the efforts of the Secretary
7 to ensure appropriate interdiction efforts, pro-
8 vide for appropriate treatment of asylum seek-
9 ers, and prepare to accept and adjudicate asy-
10 lum claims in the Commonwealth.”;

11 (3) in subsection (d)—

12 (A) by redesignating paragraphs (2)
13 through (5) as paragraphs (3) through (6), re-
14 spectively;

15 (B) by inserting after paragraph (1) the
16 following:

17 “(2) PROTECTION FOR UNITED STATES WORK-
18 ERS.—

19 “(A) FOREIGN LABOR CERTIFICATION.—

20 “(i) IN GENERAL.—Before applying
21 for a nonimmigrant worker permit under
22 this subsection, a prospective employer
23 shall obtain a certification from the De-
24 partment of Labor confirming the prospec-
25 tive employer’s assertion that—

1 “(I) no qualified United States
2 worker is able, willing, qualified, and
3 available to accept the proposed job at
4 the prevailing wage for that occupa-
5 tion in the Commonwealth; and

6 “(II) employment of the foreign
7 worker will not adversely affect the
8 wages and working conditions of simi-
9 larly employed United States workers.

10 “(ii) PETITION.—After receiving a
11 certification under clause (i), a prospective
12 employer may submit a petition to U.S.
13 Citizenship and Immigration Services for a
14 Commonwealth Only Transitional Worker
15 permit on behalf of the foreign worker.

16 “(B) PREVAILING WAGE SURVEY.—In
17 order to effectuate the requirement for foreign
18 labor certification, the Department of Labor
19 shall conduct periodic prevailing wage surveys
20 in the Commonwealth.

21 “(C) MINIMUM WAGE.—An employer shall
22 pay each Commonwealth Only Transitional
23 Worker a wage that is not less than the greater
24 of—

1 “(i) the statutory minimum wage in
2 the Commonwealth;

3 “(ii) the Federal minimum wage;

4 “(iii) the prevailing wage in the Com-
5 monwealth for the occupation in which the
6 worker is employed; or

7 “(iv) the actual wage level paid by the
8 employer to any other individual employed
9 in the same occupation.”;

10 (C) by amending paragraph (3), as redes-
11 ignated, to read as follows:

12 “(3) PERMITS.—

13 “(A) IN GENERAL.—The Secretary shall
14 establish, administer, and enforce a system for
15 allocating and determining the number, terms,
16 and conditions of permits to be issued to pro-
17 spective employers for each such nonimmigrant
18 worker described in this subsection who would
19 not otherwise be eligible for admission under
20 the Immigration and Nationality Act (8 U.S.C.
21 1101 et seq.).

22 “(B) COMMENTS FROM GOVERNOR.—In
23 carrying out this paragraph, the Secretary—

24 “(i) shall consider, in good faith, any
25 comments or advice submitted by the Gov-

1 ernor of the Commonwealth, including any
2 recommendation to reserve a number of
3 permits each year for occupational cat-
4 egories necessary to maintain public health
5 or safety in the Commonwealth;

6 “(ii) shall, not later than 30 days
7 after the receipt of such comments or ad-
8 vice, submit a written response to the Gov-
9 ernor; and

10 “(iii) in the Secretary’s sole discre-
11 tion, may make the reservation of permits
12 recommended by the Governor.

13 “(C) NUMERICAL CAP.—The number of
14 permits issued under subparagraph (A) may
15 not exceed 13,000 during fiscal year 2019.

16 “(D) ANNUAL ADJUSTMENTS.—Beginning
17 in fiscal year 2020, and annually thereafter, the
18 number of permits issued under subparagraph
19 (A) may not exceed a number that is 500 fewer
20 than the number of permits that were issued
21 during the immediately preceding fiscal year.

22 “(E) REPORTS REGARDING THE PERCENT-
23 AGE OF DOMESTIC WORKERS.—

24 “(i) BY GOVERNOR.—Not later than
25 60 days before the end of each calendar

1 year, the Governor shall submit a report to
2 the Secretary that identifies the ratio be-
3 tween domestic workers to non-domestic
4 workers in the Commonwealth's workforce
5 based on income tax filings with the Com-
6 monwealth for the tax year.

7 “(ii) BY GAO.—Not later than Decem-
8 ber 31, 2019, and biennially thereafter, the
9 Comptroller General of the United States
10 shall submit a report to the Chair and
11 Ranking Member of the Committee on En-
12 ergy and Natural Resources of the Senate
13 and the Chair and Ranking Member of the
14 Committee on Natural Resources of the
15 House of Representatives that identifies
16 the ratio between domestic workers and
17 non-domestic workers in the Common-
18 wealth's workforce during each of the pre-
19 vious 5 calendar years.

20 “(F) APPLICATION; ISSUANCE OF PER-
21 MITS.—

22 “(i) SUBMISSION.—A prospective em-
23 ployer may submit an application—

24 “(I) for a new permit 180 days
25 before the beginning of the allocation

1 year in which the permit will become
2 effective; or

3 “(II) for the renewal of an exist-
4 ing permit 180 days before the end of
5 the allocation year in which the exist-
6 ing permit expires.

7 “(ii) ADJUDICATION.—The Secretary
8 shall adjudicate an application for a permit
9 submitted pursuant to clause (i) not later
10 than 60 days after the receipt of such ap-
11 plication.

12 “(iii) EMPLOYMENT VERIFICATION.—
13 The Secretary shall establish a system for
14 each employer of a Commonwealth Only
15 Transitional Worker to submit a quarterly
16 report to the U.S. Immigration and Cus-
17 toms Enforcement office in the Common-
18 wealth that provides evidence to verify the
19 continuing employment and payment of
20 such worker under the terms and condi-
21 tions set forth in the permit petition that
22 the employer filed on behalf of such work-
23 er.

24 “(iv) REVOCATION.—

1 “(I) IN GENERAL.—The Sec-
2 retary may revoke a permit approved
3 under this paragraph if—

4 “(aa) the employer fails to
5 maintain the continuous employ-
6 ment of the subject worker, fails
7 to pay the subject worker, or
8 commits any other violation of
9 the terms and conditions of em-
10 ployment; or

11 “(bb) the beneficiary of such
12 petition does not apply for a visa
13 within 60 days after the approval
14 of such petition.

15 “(II) USE OF REVOKED PETI-
16 TION.—A revoked petition under this
17 paragraph shall be immediately avail-
18 able for use within the same fiscal
19 year for which the petition was ap-
20 proved and shall not be further count-
21 ed against the numerical limit for that
22 year.

23 “(v) LEGITIMATE BUSINESS.—

1 “(I) IN GENERAL.—A prospective
2 employer that is not a legitimate busi-
3 ness may not be granted a petition.

4 “(II) DEFINED TERM.—In this
5 clause, the term ‘legitimate business’
6 means a real, active, and operating
7 commercial or entrepreneurial under-
8 taking that the Secretary, in the Sec-
9 retary’s sole discretion, determines—

10 “(aa) produces services or
11 goods for profit, or is a govern-
12 mental, charitable, or other val-
13 idly recognized nonprofit entity;

14 “(bb) meets applicable legal
15 requirements for doing business
16 in the Commonwealth;

17 “(cc) has substantially com-
18 plied with wage and hour laws,
19 occupational safety and health
20 requirements, and all other Fed-
21 eral requirements related to em-
22 ployment during the preceding 5
23 years; and

24 “(dd) does not directly or in-
25 directly engage in prostitution,

1 human trafficking, or any other
2 activity that is illegal under Fed-
3 eral or Commonwealth law.

4 “(vi) CONSTRUCTION OCCUPATIONS.—

5 A permit for Construction and Extraction
6 Occupations (as defined by the Depart-
7 ment of Labor as Standard Occupational
8 Classification Group 47-0000) may only be
9 issued to extend a permit that was first
10 issued before October 1, 2015.”;

11 (D) in paragraph (4), as redesignated, by
12 inserting “or to Guam for the purpose of tran-
13 sit only” after “except admission to the Com-
14 monwealth”;

15 (E) in paragraph (5), as redesignated, by
16 adding at the end the following: “Approval of a
17 petition filed by the new employer within the
18 same fiscal year as the current permit shall not
19 count against the numerical limitation for that
20 period.”; and

21 (F) by adding at the end the following:

22 “(7) CW-3 WORKERS.—

23 “(A) DESIGNATION.—The Secretary shall
24 designate an alien admitted under this sub-
25 section as a ‘CW-3 worker’ if the alien—

1 “(i) was admitted to the Common-
2 wealth as a Commonwealth Only Transi-
3 tional Worker during fiscal year 2014 and
4 every subsequent fiscal year beginning be-
5 fore the date of the enactment of the
6 Northern Mariana Islands U.S. Workforce
7 Act; and

8 “(ii) is otherwise admissible.

9 “(B) PERMIT.—

10 “(i) IN GENERAL.—Each CW-3 work-
11 er shall be deemed to have met the foreign
12 labor certification requirement under para-
13 graph (2) and, upon application, shall be
14 issued a permit to remain in the Common-
15 wealth during the 3-year period beginning
16 on the date of the enactment of the North-
17 ern Mariana Islands U.S. Workforce Act.

18 “(ii) RENEWAL.—The permit issued
19 under clause (i) may be renewed in 3-year
20 increments during the transition period de-
21 scribed in subsection (a)(2) if the alien re-
22 mains outside of the United States for a
23 continuous period of not less than 30 days
24 during the 180-day period immediately
25 preceding each such renewal.

1 “(iii) NUMERICAL LIMITATION.—Each
2 permit issued under clause (i) shall count
3 against the annual numerical limitations
4 set forth in subparagraphs (C) and (D)
5 of paragraph (3).

6 “(C) ROSTER.—The Secretary shall main-
7 tain a roster of aliens in this category.

8 “(D) FEE.—Employers of CW-3 workers
9 shall be subject to the annual education fee
10 under subsection (a)(6).

11 “(8) REQUIREMENT TO REMAIN OUTSIDE OF
12 THE UNITED STATES.—Except as provided in para-
13 graph (7), the permit for a Commonwealth Only
14 Transitional Worker may not be renewed for more
15 than 2 consecutive years. An alien may not again be
16 eligible for such a permit until after the alien has re-
17 mained outside of the United States for a contin-
18 uous period of not less than 30 days.”; and

19 (4) by adding at the end the following:

20 “(i) DEFINITIONS.—In this section:

21 “(1) ALLOCATION YEAR.—The term ‘allocation
22 year’ means the fiscal year immediately following the
23 current year.

1 “(2) COMMONWEALTH.—The term ‘Common-
2 wealth’ means the Commonwealth of the Northern
3 Mariana Islands.

4 “(3) COMMONWEALTH ONLY TRANSITION
5 WORKER.—The term ‘Commonwealth Only Transi-
6 tion Worker’ means an alien who has been admitted
7 into the Commonwealth under the transition pro-
8 gram for the purposes of a permit provided under
9 subsection (d)(3).

10 “(4) CURRENT YEAR.—The term ‘current year’
11 means the fiscal year in which an allocation is deter-
12 mined for the allocation year.

13 “(5) DOMESTIC WORKER.—The term ‘domestic
14 worker’ means any worker who is—

15 “(A) a United States worker; or

16 “(B) a citizen of the Republic of the Mar-
17 shall Islands, the Federated States of Micro-
18 nesia, or the Republic of Palau (known collec-
19 tively as the ‘Freely Associated States’) who
20 has been lawfully admitted to the United States
21 pursuant to—

22 “(i) section 141 of the Compact of
23 Free Association between the Government
24 of the United States and the Governments
25 of the Marshall Islands and the Federated

1 States of Micronesia (48 U.S.C. 1921
2 note); or

3 “(ii) section 141 of the Compact of
4 Free Association between the United
5 States and the Government of Palau (48
6 U.S.C. 1931 note).

7 “(6) GOVERNOR.—The term ‘Governor’ means
8 the Governor of the Commonwealth of the Northern
9 Mariana Islands.

10 “(7) SECRETARY.—The term ‘Secretary’ means
11 the Secretary of Homeland Security.

12 “(8) TAX YEAR.—The term ‘tax year’ means
13 the fiscal year immediately preceding the current
14 year.

15 “(9) UNITED STATES WORKER.—The term
16 ‘United States worker’ means any worker who is—

17 “(A) a citizen or national of the United
18 States; or

19 “(B) an alien who has been—

20 “(i) lawfully admitted for permanent
21 residence;

22 “(ii) admitted as a refugee under sec-
23 tion 207 of the Immigration and Nation-
24 ality Act (8 U.S.C. 1157); or

1 “(iii) granted asylum under section
2 208 of such Act (8 U.S.C. 1158).”.

3 (b) RULEMAKING.—Not later than 60 days after the
4 date of the enactment of this Act, the Secretary of Home-
5 land Security shall publish regulations in the Federal Reg-
6 ister to implement the amendments made by subsection
7 (a).

8 (c) DEPARTMENT OF THE INTERIOR TECHNICAL AS-
9 SISTANCE.—Not later than October 1, 2019, and bienni-
10 ally thereafter, the Secretary of the Interior shall submit
11 a report to Congress that describes the fulfillment of the
12 Department of the Interior’s responsibilities to the Com-
13 monwealth of the Northern Mariana Islands—

14 (1) to identify opportunities for economic
15 growth and diversification;

16 (2) to provide assistance in recruiting, training,
17 and hiring United States workers; and

18 (3) to provide such other technical assistance
19 and consultation as outlined in section 702(e) of the
20 Consolidated Natural Resources Act of 2008 (48
21 U.S.C. 1807).